

JAN 12 2006**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MAJESTY IBAY GALI,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-73672

Agency No. A42-828-966

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted January 9, 2006^{**}

Before: HUG, O'SCANNLAIN, and SILVERMAN, Circuit Judges.

Majesty Ibay Gali, a native and citizen of the Philippines, petitions for review of the Board of Immigration Appeals' summary affirmance without opinion of an immigration judge's ("IJ") removal order. We have jurisdiction pursuant to 8 U.S.C. § 1252, and deny the petition for review.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Reviewing de novo, *Altamirano v. Gonzales*, 427 F.3d 586, 591 (9th Cir. 2005), we conclude that the IJ properly relied upon police and probation reports relating to Gali’s admitted convictions in exercising his discretion to deny Gali cancellation of removal. *See Tokatly v. Ashcroft*, 371 F.3d 613, 621 (9th Cir. 2004) (“[I]t is proper [for the Board] to look to probative evidence outside the record of conviction in inquiring as to the circumstances surrounding the commission of [a] crime in order to determine whether a favorable exercise of discretion is warranted” (quoting *In re Mendez-Moralez*, 21 I. & N. Dec. 296, 303 n.1 (BIA 1996) (en banc)) (alterations in original)). Contrary to Gali’s contention, the IJ did not “essentially [find] that Gali had been convicted of sexual battery of a minor,” but rather stated explicitly that “he has not been convicted of an aggravated felony.”

PETITION FOR REVIEW DENIED.